IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 16208 of 2004

Between:

Ch. Nageshwar Rao, S/o. Pentaiah, aged about 54 years,
Assistant Grade II (Depot), Food Corporation of India,
Khammam District.

..... PETITIONER

AND

1 The Senior Regional Manager, Food Corporation of India,
A.P. Region, HACA Bhawan, Hyderabad.
2 The District Manager, Food Corporation of India,
Vijayawada District Office, Vijayawada, Krishna District.
3 The District Manager, Food Corporation of India,
Khammam, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue an order direction or writ particularly one in the nature of writ of MANDAMUS or any other appropriate writ i) declaring the action of the respondents in ordering for recovery of money form the petitioner towards transit losses, full bag shortages without conducting detailed enquiry as required under Rule 58 of the F.C.I. Staff Regulations 1971 is illegal ii) Declare the action the respondents in recovering all the pecuniary losses without conducting detailed enquiry is illegal iii) declare that action of the respondents in issuing the final orders in respect of the petitioner is in violation of the circular No. 236/2003 dated 23-7-2003 and consequently set aside the memorandums, memorandum of charges and the final orders of recovery made against the petitioners, including the order of recovery issued by the third respondent vide proceedings No Vig 4(15)/2004 dated 25-05-2004.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondents: MR C.B.ANJANEYULU (SC FOR FCI)

The Court made the following:

ORDER:

The petitioner is working as an Assistant Grade-II (Depot) in the Respondents Corporation. He worked in the Buffer Storage Complex, Gudiwada for the period from 2001 to 2004. He was entrusted with the works of food grains storage and also transportation from storage depots to destination points.

2. The petitioner contends that in pursuance of a Circular dated 06.11.1998 a consignment certificate officer has been deputed to ensure that the dispatch of the stocks by rail is meticulously followed and he has been giving a clarification for every dispatch of the stocks, and only after his clarification, the stocks are being moved from the buffer stock complex. During the period from 2002 to 2004, the petitioner participated in various loading operations to various destinations along with other employees working on the depot side. He attended on 15.03.2002 for dispatch of rice stocks from buffer stock complex, Gudiwada to T.V.Coil.

3. The petitioner contends that after lapse of one year period, he was issued a memo dated 20.12.2003 alleging that he was responsible for shortage of 1503 Kgs rice. He submitted his explanation to the said memo on 01.04.2004, denying the charges levelled against him.

4. The contention of the petitioner is that the Corporation did not follow the procedure prescribed in conducting disciplinary proceedings and further contended that without considering his explanation, he was issued a charge sheet on 10.03.2004. Despite of his explanation, the respondents Corporation mechanically passed the final orders on 25.06.2004 imposing the penalty of recovery of Rs.3,690/- in three equal instalments.

5.The petitioner further contends that he was also issued another charge memo dated 21.02.2004 alleging that there was shortage of 171 kgs of raw rice, valued at Rs.2,035/-. The petitioner was also issued another charge memo on 24.10.2003 alleging that he was responsible for shortage of 0.051.000 valued at Rs.627/- in respect of consignment dated 22.06.2001.

6. The petitioner contends that the respondents without following the procedure passed the orders by imposing penalty on him on the basis of

various charge memos. The petitioner, therefore, approached this Court seeking to declare that the action of the respondents in ordering recovery of money from the petitioner towards transit losses as illegal and to further seek to declare that the action of the respondents in recovering pecuniary losses without conducting a detailed enquiry is illegal.

7. There is a statutory appeal provided against the orders of the respondents. The petitioner, without preferring any appeal, directly approached this Court through this writ petition. The Writ Petition, therefore, cannot be maintained at this stage. The petitioner is at liberty to prefer an appeal to the concerned authority against the orders of the respondents. There shall be stay of recovery of the amounts from the petitioner till the disposal of the said appeal.

8. The Writ Petition is, accordingly, disposed of. No order as to costs.

dsr/svs

ASSISTANT REGISTRAR

To:

1. The Senior Regional Manager,

Food Corporation of India,

A.P.Region, HACA Bhavan

2. The District Manager,

Food Corporation of India,

Vijayawada District Office,

Vijayawada, Krishana District

3. The District Manager,

Food Corporation of India,

Khammam, Khammam District

4. Two CD copies.